

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Brian Garrett, *et al.*,

Plaintiffs,

v.

The Ohio State University,

Defendant.

Lead Action 2:18-cv-692

Judge Michael H. Watson

Chief Magistrate Judge Deavers

ORDER

In the past few months, this case and the consolidated and related cases thereto have started to veer into two distinctly separate tracks. About half of the Plaintiffs have reached a tentative settlement agreement with The Ohio State University. But the remainder of Plaintiffs have voiced frustration with the mediation process and have asked this Court to reinstate a case schedule. Until recently, however, the Court had not received word from the mediator that the situation warranted parallel mediation and litigation efforts. Having now been so informed by the mediator, the Court **PARTIALLY LIFTS** the mediation stay and **ORDERS** the following:

1. Case Numbers 2:19-cv-2237, 2:19-cv-1911, 2:19-cv-5418, 2:19-cv-3165, 2:19-4397, 2:19-cv-4624, 2:19-cv-4634, 2:19-cv-5551, 2:20-cv-1188, 2:19-cv-2429, 2:20-cv-1385, and 2:19-cv-4433 (“settling cases”) shall be unconsolidated with Case Number 2:18-cv-692 and

consolidated with each other. Case Number 2:19-cv-2237 will be the new lead case.

2. Any Plaintiffs from any **settling case** that do not wish to join the settlement (“non-joining Plaintiffs”), and who wish to continue with litigation, shall file a new Complaint within the timeframe set forth below.
 - a. To the extent such non-joining Plaintiffs are represented by the same counsel, all non-joining Plaintiffs represented by that counsel shall be joined together in a *single* new complaint. Non-joining Plaintiffs who are currently represented by different counsel of record are permitted, but not required, to join together in a Complaint. In other words, the Court envisions no more than one new Complaint by each set of non-joining Plaintiffs who are represented by the same group of attorneys.
3. All cases that have not settled even in part (“non-settling cases”) shall be unconsolidated from Case Number 2:18-cv-692 and shall proceed simultaneously with litigation and continued mediation.
 - a. The non-settling cases shall be listed as related but shall not be consolidated with one another.
 - b. For administrative efficiency, each group of attorneys who represents multiple non-settling cases shall choose one of those case numbers in which to file an Amended Complaint that

incorporates all of the non-settling Plaintiffs whom that group of attorneys represents. Thereafter, the other case numbers currently represented by that group of attorneys shall be administratively closed without judgment.

- c. Non-settling cases that are currently represented by different attorney groups are permitted, but not required, to join together in an Amended Complaint.
 - d. As with the settling cases that contain non-settling Plaintiffs, the goal of this Order is to reduce the amount of non-settling cases to, at most, one by each group of attorneys.
 - e. Attorney groups who represent more than one current non-settling case and feel there is a need *for that attorney group* to maintain more than one non-settling case number shall move the Court to do so, explaining specifically why their numerous non-settling cases cannot be joined together.
- 4. Amended Complaints shall be filed within twenty-one days of the date of this Order.
 - 5. Notwithstanding prior extensions of time, Defendant's responsive pleading, and any subsequent briefing thereto, shall be filed within the time established in the Federal Rules of Civil Procedure and the Southern District of Ohio's Local Rules.
 - 6. Nothing in this Order should be construed as an indication by the Court

that mediation efforts should cease. The Court fully expects the parties to continue their mediation efforts under the direction of Judge Barrett.

IT IS SO ORDERED.

/s/ Michael H. Watson
MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT